UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,105	02/20/2004	Craig P. Luftig	TZG0007	6924

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EXAMINER
RAPILLO, KRISTINE K

ART UNIT	PAPER NUMBER
3626	

NOTIFICATION DATE	DELIVERY MODE
09/15/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _28 June 2011_.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-4,6,7,10-15,17,18,21-26,28,29 and 32-34_ is/are pending in the application.

  4a) Of the above claim(s) _5, 8-9, 16, 19-20, 27, 30-31_ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-4,6,7,10-15,17,18,21-26,28,29 and 32-34_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _22 June 2009_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _8/30/2004; 7/24/2006_.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Notice to applicant

1.   This communication is in response to the amendment submitted June 28, 2011. Claims 1 – 2, 6

– 7, 10 – 11, 17 – 18, 21 - 22, 28 – 29, and 30 are amended. Claims 5, 8 – 9, 16, 19 – 20, 27, and 30 –

31 were previously cancelled. Claims 33 – 34 are new. Claims 1 – 4, 6 – 7, 10 – 15, 17 – 18, 21 – 26, 28

– 29, and 32 - 34 are presented for examination.

NOTE: The header information on the remarks and claim amendments (pages 2 – 12) is incorrect; the

U.S. Patent Application listed in the header is 11/145,153. Please make the appropriated corrections.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1 – 4, 6 – 7, 10 – 15, 17 – 18, 21 – 26, 28 – 29, and 32 are rejected under 35 U.S.C.

103(a) as being unpatentable over Lencki et al., herein after Lencki (U.S. Publication Number

2002/0049617) in view of Kaehler et al. (U. S. Publication Number 2005/0086075 A1), hereinafter

Kaehler, further in view of Kenna et al., herein after Kenna (U.S. Patent Number 7,133,840).

In regard to claim 1 (Currently Amended), Lencki teaches a computing system to integrate a

defined contribution plan with a health plan comprising:

- a claim processing system (paragraph [0111]);

- a health plan management software module (paragraph [0281]) where Lencki discloses customer

  service software which can be modified to encompass a health care plan; and

- a defined contribution management software module integrated with the health plan management software module (paragraphs [0093] and [0094]), both the health plan management and defined contribution software modules operable by the claim processing system to:
  - create a defined contribution application for the health plan to allow for the entry of information for the defined contribution plan (paragraphs [0271] and [0273]),
  - link defined contribution plan information to the health plan (paragraph [0184]); and
  - establish allocation rules, amounts, and explanation codes for the defined contribution plan (paragraph [0084]);
  - Allocation rules and amounts for the defined contribution plan which comprises for the FSA, defining parameters including a claim submission method considered during FSA claim processing (paragraphs [0081], [0193], and [0206] where Lencki discloses an invention in which an employee contributes to an account where pre and post tax dollars can be contributed, which is equated to a flexible spending account.

Lencki fails to teach a system comprising: the defined contribution plan being either a Health Reimbursement Arrangement (HRA) account or a Flexible Spending Account (FSA) account; for the HRA, determining whether HRA allocated amounts are to be carried over and including explanation codes for claims disallowed due to the HRA or FSA amount being exhausted.

Kaehler teaches a system comprising: the defined contribution plan being either a Health Reimbursement Arrangement (HRA) account or a Flexible Spending Account (FSA) account (paragraphs [0033] and [0052]) which comprises, for the HRA, determining whether HRA allocated amounts are to be carried over (paragraphs [0033] and [0052]).

Lencki and Kaehler fail to teach including explanation codes for claims disallowed due to the HRA or FSA amount being exhausted.

Kenna teaches a system comprising: including explanation codes for claims disallowed due to the HRA or FSA amount being exhausted (column 10, lines 7 – 12; column 12, lines 62 – 63; and column 14, lines 24 – 53 where a code is returned approving or denying a claim submission).

It would have been obvious to one of ordinary skill in the art to include in the system and method of providing benefits of Lencki and the benefit management method and system of Kaehler, the ability to manage a medical savings account as taught by Kenna since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

In regard to claim 2 (Currently Amended), Lencki, Kaehler, and Kenna teach the computing system of claim 1. Lencki further teaches a system comprising a claim processing defined contribution software module integrated with a health plan <u>claim</u> processing software module, both the health plan claim processing and defined contribution claim processing software modules operable by the claim processing system to: perform claim processing (paragraph [0111]; and determine a claim payment for a member based on the defined contribution plan (paragraph [0011]).

In regard to claim 3 (Previously Presented), Lencki, Kaehler, and Kenna teach the computing system of claim 1. Lencki further teaches a system wherein the health plan claim processing and defined contribution claim processing software modules store a record of a claim payment for the defined contribution plan for access by a member, provider, employer, broker or employee of the health plan (paragraphs [0134] and [0135]).

In regard to claim 4 (Previously Presented), Lencki, Kaehler, and Kenna teach the computing system of claim 3. Lencki further teaches a system comprising a network interface to couple the claim processing system to a network, wherein a member of the health plan utilizing a computing device accesses a record of a claim payment for the defined contribution plan through the network (paragraph [0196]).

In regard to claim 6 (Currently Amended), Lencki, Kaehler, and Kenna teach the computing system of claim 1. Lencki further teaches a system wherein establishing allocation rules, amounts, and explanation codes for the HRA further comprises defining parameters including at least one of copays, deductibles, coinsurance, and patient liability portions that are considered for payment by the HRA during claim processing (paragraphs [0181], [0193], and [0206]). Lencki fails to teach an HRA.

Kaehler teaches an HRA (paragraphs [0033] and [0052]).

The motivation to combine the teachings of Lencki, Kaehler, and Kenna is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 7 (Currently Amended), Lencki, Kaehler, and Kenna teach the computing system of claim 1. Lencki further teaches a system wherein establishing allocation rules, amounts, and explanation codes for the HRA further comprises defining a member's allocation amount and tier (paragraph [0206]). Lencki fails to teach an HRA.

Kaehler teaches an HRA (paragraphs [0033] and [0052]).

The motivation to combine the teachings of Lencki, Kaehler, and Kenna is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 10 (Currently Amended), Lencki, Kaehler, and Kenna teach the computing system of claim 1. Lencki further teaches a system wherein establishing allocation rules, amounts, and explanation codes for the FSA further comprises defining parameters including an FSA allocation amount and that is considered during FSA claim processing (paragraphs [0081], [0193], and [0206]).

Method claims 11 – 15 and 21 repeat the subject matter of system claims 1 – 4 and 10 as a series of steps rather than a set of apparatus elements. As the underlying elements of claims 1 - 4 and 10 have been shown to be fully disclosed by the teaching of Lencki, Kaehler, and Kenna in the above rejection of claims 1— 4 and 10, it is readily apparent that the system disclosed by Lencki, Kaehler, and

Kenna performs these steps. As such, these limitations (claims 11 – 15 and 21) are rejected for the same reasons given above for system claims 1— 4 and 10, and incorporated herein.

Method claims 17 – 18 repeat the subject matter of system claims 6 - 7 as a series of steps rather than a set of apparatus elements. As the underlying elements of claims 6 - 7 have been shown to be fully disclosed by the teachings of Lencki, Kaehler, and Kenna in the above rejection of claims 6 - 7, it is readily apparent that the system disclosed by Lencki, Kaehler, and Kenna performs these steps. As such, these limitations (claims 17 – 18) are rejected for the same reasons given above for system claims 6 - 7, and incorporated herein.

Machine-readable medium claims 22 - 26 and 32 repeat the subject matter of system claims 1 – 4 and 10 as the execution of a series of steps rather than a set of apparatus elements. As the underlying elements of claims 1 - 4 and 10 have been shown to be fully disclosed by the teaching of Lencki, Kaehler, and Kenna in the above rejection of claims 1— 4 and 10, it is readily apparent that the system disclosed by Lencki, Kaehler, and Kenna performs these steps. As such, these limitations (claims 22 - 26 and 32) are rejected for the same reasons given above for system claims 1— 4 and 10, and incorporated herein.

Machine-readable medium claims 28 - 29 repeat the subject matter of system claims 6 - 7 as the execution of a series of steps rather than a set of apparatus elements. As the underlying elements of claims 6 - 7 have been shown to be fully disclosed by the teachings of Lencki, Kaehler, and Kenna in the above rejection of claims 6 - 7, it is readily apparent that the system disclosed by Lencki, Kaehler, and Kenna performs these steps. As such, these limitations (claims 28 - 29) are rejected for the same reasons given above for system claims 6 - 7, and incorporated herein.

In regard to claim 33 (New), Lencki, Kaehler, and Kenna teach the computing system of claim 1.

Lencki and Kaehler fail to teach a system wherein establishing allocation rules, amounts, and explanation codes further comprises defining a family allocation parameter set including maximum

allocation amounts, maximum carryover amounts, and deductible amounts for each of a plurality of tier

levels including individual, subscriber/spouse, subscriber/spouse plus child, and family.

Kenna teaches a system wherein establishing allocation rules, amounts, and explanation codes

further comprises defining a family allocation parameter set including maximum allocation amounts,

maximum carryover amounts, and deductible amounts for each of a plurality of tier levels including

individual, subscriber/spouse, subscriber/spouse plus child, and family (column 3, lines 45 – 57 and

column 8, line 54 through column 9, line 41).

The motivation to combine the teachings of Lencki, Kaehler and Kenna is discussed in the

rejection of claim 1, and incorporated herein.

In regard to claim 34 (New), Lencki, Kaehler, and Kenna teach the computing system of claim 1.

Lencki teaches a system wherein the defined contribution management software module is further

operable to display individual claim processing line items including an allowed amount of payment benefit,

a disallowed amount of payment benefit, and an amount of benefit paid from the HRA account or the FSA

account (paragraphs 9, 10, and 82).

Response to Arguments

4.   Applicant's arguments filed June 28, 2011 have been fully considered but they are not

persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the

response filed June 28, 2011. The Examiner has applied new art to the new and amended claims,

therefore, the Applicant's arguments are moot.

Conclusion

5.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office

action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of

the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 3:30 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Morgan can be reached on 571-272-6773. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Morgan/
Supervisory Patent Examiner, Art Unit 3626

/K. R./
Examiner, Art Unit 3626